

## **APPENDIX D**

### **COMPLAINT AND PROTEST PROCEDURES**

#### **1.0 COMPLAINT**

This complaint procedure is available to Vendors with unresolved issues or concerns that were not addressed or resolved during the question and answer period of the solicitation.

Vendor complaints must be received, in writing, by the Solicitation Coordinator **not less than five (5) business days prior to the deadline for bid submission.**

#### **1.1 Grounds for Complaint**

Written complaints may be based only on the following:

- The solicitation unnecessarily restricts competition;
- The solicitation evaluation or scoring process is unfair or flawed; or
- The solicitation requirements are inadequate or insufficient to prepare a response.

Complaints not based on these criteria will not be considered.

#### **1.2 Format and Content**

Vendors making a complaint shall include in their written complaint to WSDOT all facts and arguments upon which the Vendor relies. Vendors shall, at a minimum, provide the following in their written complaint:

- The name of the protesting Vendor, its mailing address and phone number, and the name of the individual responsible for submission of the protest;
- The solicitation document name and number and reference to WSDOT as the issuing agency ;
- Specific and complete statement of WSDOT's action(s) that is the subject of the complaint;
- Specific reference to the basis for the complaint; and
- Description of the relief or corrective action requested.

#### **1.3 WSDOT Review Process**

Upon receipt of a complaint, the Solicitation Coordinator or his or her designee will consider all the facts available and respond in writing prior to the deadline for bid submissions. The complaint response and any changes to the solicitation arising from the complaint shall be posted on WEBS as an amendment to the solicitation.

The Solicitation Coordinator's response to the complaint is final and not subject to administrative appeal. A copy of this response will be sent to the Secretary's Office or designee.

**Issues raised in a complaint may not be raised again during the protest period.**

## **2.0 PROTEST**

This protest procedure is available to Vendors who submitted a Response to this solicitation and have requested and attended a debriefing conference. Protests must be made to WSDOT after the Apparently Successful Vendor (ASV) has been announced. To be considered, Vendor protests must be received, in writing, by WSDOT within five (5) Business Days after the Vendor debriefing conference.

### **2.1 Grounds for Protest**

Protests may be made on only these grounds:

- A matter of bias, discrimination, or conflict of interest on the part of an evaluator;
- Errors in computing the scores; or
- Non-compliance with procedures described in the procurement document or agency protest process or DES requirements.

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Protests not based on these criteria will not be considered

### **2.2 Procedure for Protest**

A Vendor must file a written protest with WSDOT within five (5) Business Days after their debriefing conference. WSDOT will immediately notify Department of Enterprise Services (DES) of receipt of the protest. WSDOT will also postpone further steps in the acquisition process until the protest has been resolved.

A protest shall be in writing, shall contain the facts and arguments upon which the protest is based, and shall be signed by a person authorized to bind the Vendor to a contractual relationship. At a minimum, the protest shall include the following information:

- The name of the protesting Vendor, its mailing address and phone number, and the name of the individual responsible for submission of the protest.
- The solicitation document name and number and reference to WSDOT as the issuing agency.
- Specific and complete statement of WSDOT's action(s) being protested.
- Specific reference to the grounds for the protest.
- Description of the relief or corrective action requested.

Protests shall be addressed to:

Chief Information Officer  
Washington State Department of Transportation  
7345 Linderson Way SW  
Tumwater, WA 98501-7430

The Vendor shall also forward a copy to the WSDOT Solicitation Administrator at the same time the protest is sent to the Chief Information Officer.

### **2.3 WSDOT Review of Process**

Upon receipt of a protest, a protest review will be held by WSDOT. WSDOT will postpone signing Contracts with ASVs until the Vendor protest has been resolved. Individuals not involved in the protested acquisition will objectively review the written protest material submitted by the

Vendor and all other relevant facts known to WSDOT. All available facts will be considered, and the director of the department responsible for administration of the Contract, or his/her delegate will issue a decision within five Business Days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay within five Business Days of receipt of the protest.

## **2.4 WSDOT Determination**

The final determination shall:

- Find the protest lacking in merit and uphold the agency's action;
- Find only technical or harmless errors in the agency's acquisition process conduct, determine the agency to be in substantial compliance, and reject the protest;
- Find merit in the protest and provide the agency with options that may include:
  - Correct errors and reevaluate all proposals; or
  - Reissue the solicitation document; or
  - Make other findings and determine other courses of action as appropriate.
- Not require the agency to award a Contract to the protesting party or any other Vendor, regardless of the outcome.
- The determination of WSDOT is final and no further administrative appeals are available.